

AMENDED IN SENATE JUNE 19, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 17, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 739

Introduced by Assembly Member Laird
(Coauthors: Assembly Members Huffman and Levine)

February 22, 2007

An act to add Sections 5096.827.2, 5096.827.3, ~~and 75050.2~~ 75050.2, ~~and 75050.4~~ to the Public Resources Code, and to add ~~Section 13383.7~~ Sections 13383.7 and 13383.8 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 739, as amended, Laird. Stormwater discharge.

~~Under~~

(1) *Under* existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act (state act).

The Safe Drinking Water, Water Quality and Supply, Flood Control, River, and Coastal Protection Bond Act of 2006 (initiative bond act) authorizes the issuance of bonds in the amount of \$5,388,000,000. The Disaster Preparedness and Flood Prevention Bond Act of 2006 authorizes the issuance of bonds in the amount of \$4,090,000,000 for the purposes of financing a disaster preparedness and flood prevention program.

~~This bill would require the state board and the Department of Water Resources to establish a coordinated approach to ensure the allocation of funds on behalf of stormwater management programs that are financed pursuant to those bond laws address the highest priority needs throughout the state develop project selection and evaluation guidelines to implement a specified stormwater flood management grant program financed by the Disaster Preparedness and Flood Prevention Bond Act of 2006. The bill would permit provide that the design and construction of projects for specified combined municipal sewer and stormwater systems to be are eligible for an allocation of funds financing under that grant program. The bill would require the state board to expend certain funds made available by the initiative bond law develop project selection and evaluation guidelines for the allocation of funds made available by the initiative bond act for a stormwater contamination prevention and reduction program to achieve specified purposes. The bill would provide for the expenditure of those funds, upon appropriation, for specified projects. The bill would require the state board to coordinate with the department with regard to the development of project selection and evaluation guidelines for various programs involving stormwater management that are financed by the initiative bond act or the Disaster Preparedness and Flood Prevention Bond Act of 2006. The state board would be required to develop a comprehensive framework for evaluating and measuring the effectiveness of municipal stormwater management programs undertaken, and permits issued, in accordance with the NPDES permit program and the state act. By establishing requirements on municipal storm water dischargers, the bill would impose a state-mandated local program. The bill would require the state board and the regional boards to include requirements for evaluating and reporting on program effectiveness in municipal stormwater permits. to appoint a stormwater management task force comprised of public agencies and nonprofit organizations, and to submit a specified stormwater management program report to the Ocean Protection Council no later than January 1, 2009, and annually thereafter.~~

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The federal Clean Water Act requires the regulation of
- 4 stormwater discharges under the national pollutant discharge
- 5 elimination system (NPDES) permit program. The State Water
- 6 Resources Control Board and the California regional water quality
- 7 control boards have been designated by the United States
- 8 Environmental Protection Agency to implement the NPDES
- 9 stormwater program.
- 10 (b) The Clean Water Act requires permits for discharges from
- 11 municipal storm sewers to include requirements to effectively
- 12 prohibit nonstormwater discharges into the storm sewers and to
- 13 require controls to reduce the discharge of ~~pollutants~~ *stormwater*
- 14 *pollutants from municipal storm sewers* to the maximum extent
- 15 practicable, including by means of management practices, control
- 16 techniques and systems, design and engineering methods, and
- 17 other provisions ~~determined as the federal or state regulators~~
- 18 *determine* to be appropriate for the control of pollutants.
- 19 (c) Stormwater discharges are generated by runoff from land
- 20 and impervious areas such as paved streets, parking lots, and
- 21 building rooftops during both dry and wet months. Stormwater
- 22 discharges often contain pollutants in quantities that could
- 23 adversely affect water quality.
- 24 (d) The State Water Resources Control Board has found that
- 25 urban runoff is a leading cause of pollution throughout California.
- 26 The United States Environmental Protection Agency considers
- 27 urban stormwater pollution a serious source of pollution in the
- 28 waters of the United States.
- 29 (e) The State Water Resources Control Board has determined
- 30 that the use of low-impact development ~~has become~~ *is* a proven
- 31 approach in certain parts of the country and is viewed in California
- 32 as an alternative to conventional stormwater management. Effective
- 33 stormwater management practices, including low-impact

1 development and the use of “green” techniques, that incorporate
2 features such as permeable surfaces and retention of the natural
3 hydrologic character of a development site should be promoted.

4 (f) *The State Water Resources Control Board and the*
5 *Department of Water Resources shall coordinate water quality,*
6 *integrated regional water management, and flood control financial*
7 *assistance programs to maximize public benefits and leverage*
8 *local and federal funding.*

9 (f)

10 (g) The State Water Resources Control Board should provide
11 state oversight regarding stormwater management, including
12 guidance, priorities, policy direction, technical assistance, and
13 evaluation of program effectiveness, ~~and funding to support~~
14 ~~effective stormwater management.~~

15 SEC. 2. Section 5096.827.2 is added to the Public Resources
16 Code, to read:

17 5096.827.2. (a) *The department, in consultation with the State*
18 *Water Resources Control Board, shall develop project selection*
19 *and evaluation guidelines to implement Section 5096.827. The*
20 *State Water Resources Control Board shall advise the department*
21 *on the stormwater and water quality portions of the guidelines,*
22 *relying as appropriate on the stormwater guidelines developed by*
23 *the State Water Resources Control Board pursuant to Section*
24 *75050.2.*

25 (b) *The guidelines shall include a provision that gives preference*
26 *to a project that reduces flood damages for which one or more of*
27 *the following applies:*

28 (1) *The project is not receiving state funding for flood control*
29 *or flood prevention projects pursuant to Section 5096.824 or*
30 *Section 75034.*

31 (2) *The project manages and reduces the water quality impacts*
32 *of stormwater runoff to streams, lakes, bays, and coastal waters.*

33 (3) *The project provides multiple benefits.*

34 SEC. 3. Section 5096.827.3 is added to the Public Resources
35 Code, to read:

36 5096.827.3. *Consistent with the requirements of Section*
37 *5096.827, the design and construction of projects for combined*
38 *municipal sewer and stormwater systems that do both of the*
39 *following are eligible for financing under Section 5096.827:*

1 (a) Address water quality improvements and climate
2 change-induced surface water rise, particularly in low-lying and
3 low-income areas.

4 (b) Enhance the capacity of the collection systems by providing
5 stormwater treatment and preventing surface water backflow into
6 the combined municipal sewer and stormwater systems.

7 SEC. 4. Section 75050.2 is added to the Public Resources Code,
8 to read:

9 75050.2. (a) The state board shall develop project selection
10 and evaluation guidelines for the allocation of funds made
11 available pursuant to subdivision (m) of Section 75050. Upon
12 appropriation, the funds shall be available for matching grants to
13 local public agencies for projects to achieve any of the following
14 purposes in accordance with the requirements of that subdivision:

15 (1) Complying with total maximum daily load requirements
16 established pursuant to Section 303(d) of the Clean Water Act (33
17 U.S.C. Sec. 1313(d)) and this division where pollutant loads have
18 been allocated to stormwater, including, but not limited to, metals,
19 pathogens, and trash pollutants.

20 (2) Providing incentives to implement low-impact development
21 and other onsite practices, on public and private lands, that
22 maximize redevelopment hydrology for new development and
23 redevelopment projects. Projects funded pursuant to this paragraph
24 shall be designed to infiltrate, filter, store, evaporate, or retain
25 runoff in close proximity to the source of water.

26 (3) Implementing treatment and source control practices to
27 meet design and performance standard requirements for new
28 development.

29 (4) Treating and recycling stormwater discharge.

30 (5) Improving the ability of combined municipal sewer and
31 stormwater systems to address water quality improvements and
32 climate change-induced surface water rise, particularly in
33 low-lying and low-income areas, and enhancing the capacity of
34 the collection systems by providing stormwater treatment and
35 preventing surface water backflow into the combined municipal
36 sewer and stormwater systems.

37 (6) Implementing best management practices, and other
38 measures, required by municipal stormwater permits issued by a
39 California regional water quality control board.

1 (7) Assessing project effectiveness, including, but not limited
2 to, monitoring receiving water quality, determining pollutant load
3 reductions, and assessing improvements in stormwater discharge
4 water quality.

5 (b) (1) For the purpose of implementing subdivision (a), the
6 state board shall give preference to a project that does one or
7 more of the following:

8 (A) Supports sustained, long-term water quality improvements.

9 (B) Is consistent with any applicable integrated regional water
10 management plan.

11 (2) The allocation of funds pursuant to this section shall be
12 consistent with water quality control plans and Section 75072.

13 SEC. 5. Section 75050.4 is added to the Public Resources Code,
14 to read:

15 75050.4. The state board shall coordinate with the department
16 with regard to the development of project selection and evaluation
17 guidelines for the following financial assistance programs that
18 are directed in whole or part for municipal stormwater
19 management, to avoid duplication and maximize water quality
20 benefits:

21 (a) Section 5096.827.

22 (b) Subdivision (a) of Section 75026.

23 (c) Subdivision (m) of Section 75050.

24 (d) Subdivision (a) of Section 75060.

25 SEC. 6. Section 13383.7 is added to the Water Code, to read:

26 13383.7. (a) No later than July 1, 2009, the state board shall
27 develop a comprehensive framework for evaluating and measuring
28 the effectiveness of municipal stormwater management programs
29 undertaken, and permits issued, in accordance with Section 402(p)
30 of the Clean Water Act (33 U.S.C. Sec. 1342(p)) and this division.

31 (b) For the purpose of implementing subdivision (a), the state
32 board shall promote the use of quantifiable measures for evaluating
33 the effectiveness of municipal stormwater management programs
34 and provide for the evaluation of, at a minimum, all of the
35 following:

36 (1) Compliance with stormwater permitting requirements,
37 including all of the following:

38 (A) Inspection programs.

39 (B) Construction controls.

40 (C) Elimination of unlawful discharges.

1 (D) Public education programs.

2 (E) Adoption and enforcement of requirements for new
3 development and redevelopment, including design standards,
4 treatment and source controls, and low impact development
5 practices.

6 (2) Reduction of pollutant loads from pollution sources.

7 (3) Reduction of pollutants in stormwater discharge.

8 (4) Improvements in the quality of receiving water in accordance
9 with water quality standards.

10 (c) Consistent with the framework adopted by the state board,
11 the state board and the regional boards shall establish
12 requirements in municipal stormwater programs and permits for
13 evaluating and reporting on program effectiveness.

14 SEC. 7. Section 13383.8 is added to the Water Code, to read:

15 13383.8. (a) The state board shall appoint a stormwater
16 management task force comprised of public agencies and nonprofit
17 organizations with expertise in water quality and stormwater
18 management. The task force shall provide advice to the state board
19 on its stormwater management program that may include, but is
20 not limited to, program priorities, funding criteria, project
21 selection, and interagency coordination of state programs that
22 address stormwater management.

23 (b) The state board shall submit a stormwater management
24 program report to the Ocean Protection Council no later than
25 January 1, 2009, and annually thereafter, on the way in which the
26 state board is implementing the priority goals and objectives of
27 the council's strategic plan.

28 SEC. 8. If the Commission on State Mandates determines that
29 this act contains costs mandated by the state, reimbursement to
30 local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.

33 ~~SEC. 2. Section 5096.827.2 is added to the Public Resources~~
34 ~~Code, to read:~~

35 ~~5096.827.2. The State Water Resources Control Board and the~~
36 ~~department shall establish a coordinated approach to ensure the~~
37 ~~allocation of funds on behalf of stormwater management programs~~
38 ~~that are financed pursuant to all of the following laws address the~~
39 ~~highest priority needs throughout the state:~~

40 ~~(a) Section 5096.827.~~

~~(b) Subdivision (a) of Section 75026.~~

~~(c) Subdivision (m) of Section 75050.~~

~~(d) Subdivision (a) of Section 75060.~~

SEC. 3. ~~Section 5096.827.3 is added to the Public Resources Code, to read:~~

~~5096.827.3. Consistent with the requirements of Section 5096.827, the design and construction of projects for combined municipal sewer and stormwater systems that (1) address water quality improvements and climate change-induced surface water rise, particularly in low-lying and low-income areas, and (2) enhance the capacity of the collection system, providing stormwater treatment and preventing surface water backflow into the systems, are eligible for an allocation of funds under Section 5096.827.~~

SEC. 4. ~~Section 75050.2 is added to the Public Resources Code, to read:~~

~~75050.2. (a) Funds made available pursuant to subdivision (m) of Section 75050 shall be expended for projects to achieve any of the following purposes in accordance with the requirements of that subdivision:~~

~~(1) Assessing project effectiveness, including monitoring receiving water quality, determining pollutant load reductions, and assessing improvements in stormwater discharge water quality.~~

~~(2) Complying with total maximum daily load requirements established pursuant to Section 303(d) of the Clean Water Act (33 U.S.C. Sec. 1313(d)) and this division where pollutant loads have been allocated to stormwater, including, but not limited to, copper, mercury, and trash pollutants.~~

~~(3) Implementing low-impact development and other onsite practices that maintain predevelopment hydrology for new development and redevelopment projects. Projects funded pursuant to this paragraph shall be designed to infiltrate, filter, store, evaporate, or retain runoff in close proximity to the source of water.~~

~~(4) Treating and recycling stormwater discharge.~~

~~(5) Implementing best management practices required by municipal stormwater permits issued by a California regional water quality control board.~~

~~(6) Improving the ability of combined municipal sewer and stormwater systems to address water quality improvements and climate change-induced surface water rise, particularly in low-lying and low-income areas, and enhancing the collection system,~~

1 providing stormwater treatment and preventing surface water
2 backflow into the systems.

3 (b) (1) For the purpose of implementing subdivision (a), the
4 board shall give preference to a project that supports sustained,
5 long-term water quality improvements.

6 (2) The allocation of funds pursuant to this section shall be
7 consistent with water quality control plans and Section 75072.

8 SEC. 5. Section 13383.7 is added to the Water Code, to read:

9 13383.7. (a) The state board shall develop a comprehensive
10 framework for evaluating the effectiveness of municipal stormwater
11 management programs undertaken in accordance with Section
12 402(p) of the Clean Water Act (33 U.S.C. Sec. 1342(p)) and this
13 division.

14 (b) For the purpose of implementing subdivision (a), the state
15 board shall promote the use of quantifiable measures for evaluating
16 the effectiveness of stormwater programs. The state board shall
17 establish criteria for measuring the effectiveness of these programs,
18 including, but not limited to, the following:

19 (1) Compliance with stormwater permitting requirements,
20 including all of the following:

21 (A) Inspection programs.

22 (B) Construction controls.

23 (C) Elimination of unlawful discharges.

24 (D) Public education programs.

25 (E) Adopting and enforcing design standards for new
26 development and redevelopment.

27 (2) Reduction of pollutant loads from pollution sources.

28 (3) Reduction of pollutants in stormwater discharge.

29 (4) Improvements in the quality of receiving water in accordance
30 with water quality standards.

31 (c) Consistent with the framework adopted by the state board,
32 the state board and the regional boards shall include requirements
33 for evaluating and reporting on program effectiveness in municipal
34 stormwater permits issued in accordance with Section 402(p) of
35 the Clean Water Act (33 U.S.C. Sec. 1342(p)) and this division.